

**SUPREME COURT MINUTES
FRIDAY, APRIL 8, 2005
LOS ANGELES, CALIFORNIA**

The Supreme Court of California reconvened in its courtroom in the Ronald Reagan State Office Building, Third Floor, South Tower, 300 South Spring Street, Los Angeles, California, on April 8, 2005, at 9:00 a.m.

Present: Chief Justice Ronald M. George, presiding, and Associate Justices Kennard, Baxter, Werdegarr, Chin, Brown and Moreno.

Officers present: Frederick K. Ohlrich, Clerk; and Gail Gray, Calendar Coordinator.

S117287 Michael Woolery Delgado, Plaintiff and Appellant

v.

Trax Bar & Grill, Defendant and Appellant

Cause called. Eric G. Young argued for Plaintiff/Appellant.

Shahab E. Fotouhi argued for Defendant/Appellant.

Mr. Young replied.

Cause submitted.

S119750 Charles E. Morris IV, Plaintiff and Appellant

v.

Silvino De La Torre, Defendant and Respondent

Cause called. Mark R. Isreal argued for Respondent.

Stephen Estey opened argument for Appellant.

Sharon Arkin, appearing for Amicus Curiae Consumer Attorneys of California, continued argument for Appellant.

Mr. Estey replied.

Cause submitted.

S119066 The People, Plaintiff and Respondent
 v.
 Jose A. Salazar, Defendant and Appellant

In re Jose A. Salazar on Habeas Corpus

Cause called. Michael J. Wise, Office of the Attorney General,
argued for Respondent.

Gail Harper opened argument for Appellant.

Michael McMahon, appearing for Amicus Curiae California Public
Defenders Association, continued argument for Appellant.

Mr. Wise replied.

Cause submitted.

S037195 The People, Respondent
 v.
 Jerry Noble Kennedy, Appellant

***(TO BE CALLED AND CONTINUED TO THE EARLY MAY
CALENDAR.)***

Court adjourned.

S131247

A101665 First Appellate District,
Division One

PEOPLE v. LEAAETOA

Time extended to grant or deny review

to May 13, 2005

S131331

A104387 First Appellate District,
Division One

PEOPLE v. AVILA

Time extended to grant or deny review

to May 18, 2005

S131453

B180621 Second Appellate District,
Division Eight

SALGADO (CHRIS) ON H.C.

Time extended to grant or deny review

to May 13, 2005

S131458

H028301 Sixth Appellate District

WHITE (DUSHUN) ON H.C.

Time extended to grant or deny review

to May 13, 2005

S131461

E037377 Fourth Appellate District,
Division Two

HARRISON (PAUL) ON H.C.

Time extended to grant or deny review

to May 13, 2005

S131481

D045198 Fourth Appellate District,
Division One

DRYDEN (PERCYVAL L.) ON H.C.

Time extended to grant or deny review

to May 16, 2005

S131483

B180488 Second Appellate District,
Division Three

PATTERSON (KELVIN) ON H.C.

Time extended to grant or deny review

to May 16, 205

S131490

B179869 Second Appellate District,
Division Three

HENDERSON v. S.C. (PEOPLE)

Time extended to grant or deny review

to May 13, 2005

S131510

B170853 Second Appellate District,
Division Two

HERNANDEZ v. BARCELO HOTELS & RESORTS
Time extended to grant or deny review

to May 13, 2005

S131530

D045118 Fourth Appellate District,
Division One

GREEN (PHILLIP) ON H.C.
Time extended to grant or deny review

to May 13, 2005

S131533

D043528 Fourth Appellate District,
Division One

SHRESTHA v. NRT, INC.
Time extended to grant or deny review

to May 17, 2005

S131548

B173132 Second Appellate District,
Division Five

PEOPLE v. SMITH
Time extended to grant or deny review

to May 16, 2005

S131549

A105374 First Appellate District,
Division One

PEOPLE v. AMONS
Time extended to grant or deny review

to May 18, 2005

S131567

F047157 Fifth Appellate District,

ERWIN (WILLIE G.) ON H.C.
Time extended to grant or deny review

to May 19, 2005

S131588

B172946 Second Appellate District,
Division Five

PEOPLE v. HERNANDEZ
Time extended to grant or deny review

to May 19, 2005

S131591

C044039 Third Appellate District,

PEOPLE v. DOTSON
Time extended to grant or deny review

to May 18, 2005

S131663

F044002 Fifth Appellate District,
Division One

PEOPLE v. WILLIAMS

Time extended to grant or deny review

May 19, 2005

S129855

D041699 Fourth Appellate District,
Division One

PEOPLE v. GOMEZ

Counsel appointment order filed

Clayton Seaman, Jr., appointed to represent
appellant on the appeal now pending in this
court.

S130424

D042150 Fourth Appellate District,
Division One

PEOPLE v. HUGGINS et al.

Counsel appointment order filed

Carl Fabian appointed to represent appellant
Robert Ortiz on the appeal now pending in this
court.

S130468

D042811 Fourth Appellate District,
Division One

PEOPLE v. CAMPA

Counsel appointment order filed

Gary V. Crooks appointed to represent appellant
on the appeal now pending in this court.

S130795

E034071 Fourth Appellate District,
Division Two

PEOPLE v. JOY

Counsel appointment order filed

Jean F. Matulis appointed to represent appellant
on the appeal now pending in this court.

S131048

B160417 Second Appellate District,
Division Eight

PEOPLE v. SHABAZZ

Counsel appointment order filed

Christine Vento appointed to represent appellant
on the appeal now pending in this court.
Appellant's brief on the merits due on or before
30 days from the date of this order.

S131325

D043512 Fourth Appellate District,
Division One

PEOPLE v. WILLIAMS

Counsel appointment order filed

Appellate Defenders Inc. appointed to represent
appellant on the appeal now pending in this
court.

S132608

CONTRERAS v. S.C (PEOPLE)

Transferred to CA 2

The above-entitled matter is transferred to the
Court of Appeal, Second Appellate District, for
consideration in light of *Hagan v. Superior
Court* (1962) 57 Cal.2d 767. In the event the
Court of Appeal determines that this petition is
substantially identical to a prior petition, the
repetitious petition shall be denied.

S132669

B181316 Second Appellate District,
Division Eight

LYONS v. S.C. (PEOPLE)

Transferred to CA 2

The above-entitled matter is transferred to the
Court of Appeal, Second Appellate District, for
consideration in light of *Hagan v. Superior
Court* (1962) 57 Cal.2d 767. In the event the
Court of Appeal determines that this petition is
substantially identical to a prior petition, the
repetitious petition shall be denied.

S132281

FICHT ON REINSTATEMENT

Petitioner reinstated

Upon petition for reinstatement and
recommendation of the State Bar of California,
it is ordered that **BRUCE FICHT** be reinstated
as a member of the State Bar of California upon
paying the fees and taking the oath required by
law.

S113027

THOMPSON ON DISCIPLINE

Probation revoked

Good cause having been shown, it is hereby
ordered that probation is revoked, the previously

ordered stay of execution of suspension in the above entitled matter is lifted, and **JAMES FRANKLIN THOMPSON, State Bar No. 84309**, must be actually suspended from the practice of law for two years and until he provides proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and present learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct. Credit toward the period of actual suspension shall be given for the period of involuntary inactive enrollment which commenced on February 7, 2005 (Business & Professions Code section 6007(d)(3)). Costs are awarded to the State Bar in accordance with Business & Professions Code section 6086.10 and payable in accordance with Business & Professions Code section 6140.7.

S130676

HOLZINGER ON DISCIPLINE
Recommended discipline imposed

It is ordered that **ROBERT ERICK HOLZINGER, State Bar No. 200278**, be suspended from the practice of law for one year, that execution of the suspension be stayed, and that he be placed on probation for two years subject to the conditions of probation, including ninety days actual suspension to be served consecutively to the period of actual suspension imposed in S121458, recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on November 4, 2004, as modified by Order filed November 19, 2004. It is further ordered that he comply with rule 955 of the California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order.* Costs are awarded to the State Bar in accordance with Business & Professions Code section 6086.10 and one-half of said costs must be added to and become part of the membership fees for the years 2006, and 2007.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S130677**WHEELER ON DISCIPLINE**

Recommended discipline imposed: disbarred

It is hereby ordered that **BOBBY OREN WHEELER, JR., State Bar No. 140726**, be disbarred from the practice of law and that his name be stricken from the roll of attorneys. Respondent is also ordered to comply with rule 955 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar.
*(See Bus. & Prof. Code, § 6126, subd. (c).)

S130820**PERRY ON DISCIPLINE**

Recommended discipline imposed

It is ordered that **MICHELLE D. PERRY, State Bar No. 168729**, be suspended from the practice of law for two years, that execution of the suspension be stayed, and that she be actually suspended from the practice of law for 60 days, as recommended by the Hearing Department of the State Bar Court in its decision filed on December 7, 2004; and until the State Bar Court grants a motion to terminate her actual suspension pursuant to rule 205 of the Rules of Procedure of the State Bar of California. Respondent is also ordered to comply with the conditions of probation, if any, hereinafter imposed by the State Bar Court as a condition for terminating her actual suspension. If respondent is actually suspended for two years or more, she must remain actually suspended until she provides proof to the satisfaction of the State Bar Court of her rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct. It is further ordered that respondent take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order or during the period of respondent's actual suspension, whichever is

longer. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar in accordance with Business & Professions Code section 6086.10 and payable in accordance with Business & Professions Code section 6140.7.

S130822

MILLER ON DISCIPLINE

Recommended discipline imposed

It is ordered that **JOAN MARIE MILLER, State Bar No. 134220**, be suspended from the practice of law for one year, that execution of the suspension be stayed, and that she be placed on probation for two years subject to the conditions of probation recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed on December 14, 2004. It is further ordered that she take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar in accordance with Business & Professions Code section 6086.10 and payable in accordance with Business & Professions Code section 6140.7.

S130824

MCGUIRE ON DISCIPLINE

Recommended discipline imposed

It is ordered that **TERRENCE McGUIRE, State Bar No. 90675**, be suspended from the practice of law for five years and until he complies with standard 1.4(c)(ii) set forth below, that execution of the suspension be stayed, and that he be placed on probation for five years on condition that he be actually suspended for two years and until he has shown proof satisfactory to the State Bar Court of respondent's rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct. Respondent is further ordered to

comply with the other conditions of probation, including restitution, recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed on December 10, 2004. Respondent is further ordered to comply with rule 955 of the California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of this order.* Costs are awarded to the State Bar in accordance with Business & Professions Code section 6086.10 and one-third of said costs must be added to and become part of the membership fees for the years 2005, 2006, and 2007.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S130826

KOTTKE ON DISCIPLINE
Recommended discipline imposed

It is ordered that **JON STEVEN KOTTKE, State Bar No. 100968**, be suspended from the practice of law for two years, that execution of the suspension be stayed, and that he be actually suspended from the practice of law for 30 days and until the State Bar Court grants a motion to terminate his actual suspension pursuant to rule 205 of the Rules of Procedure of the State Bar of California as recommended by the Hearing Department of the State Bar Court in its decision filed on December 2, 2004. Respondent is also ordered to comply with the conditions of probation, if any, hereinafter imposed by the State Bar Court as a condition for terminating his actual suspension. If respondent is actually suspended for two years or more, he must remain actually suspended until he provides proof to the satisfaction of the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct. It is further ordered that respondent take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order or

during the period of respondent's actual suspension, whichever is longer. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) If respondent is actually suspended for 90 days or more, it is further ordered that he comply with rule 955 of the California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar in accordance with Business & Professions Code section 6086.10 and payable in accordance with Business & Professions Code section 6140.7.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S130827

ROSENBERG ON DISCIPLINE

Recommended discipline imposed

It is ordered that **JEFFREY PAUL ROSENBERG, State Bar No. 104845**, be suspended from the practice of law for two years and until he has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct, that execution of the suspension be stayed, and that he be placed on probation for three years on condition that he be actually suspended for one year. Respondent is further ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed on December 9, 2004. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Respondent is further ordered to comply with rule 955 of the California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order.* Costs are awarded to the State Bar in accordance with

Business & Professions Code section 6086.10
and payable in accordance with Business &
Professions Code section 6140.7.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S132782

PICK ON RESIGNATION

Resignation accepted with disc. proceeding pending

The voluntary resignation of **BERNARD JAY PICK, State Bar No. 58022**, as a member of the State Bar of California is accepted without prejudice to further proceedings in any disciplinary proceeding pending against respondent should he hereafter seek reinstatement. It is ordered that he comply with rule 955 of the California Rules of Court and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is filed.* Costs are awarded to the State Bar.

*(See Bus. & Prof. Code, § 6126, subd. (c).)